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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

AVIANCA HOLDINGS S.A., *et al.*,¹

Debtors.
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Chapter 11

Case No. 20-11133 (MG)

(Jointly Administered)

Ref. Doc. No. 994

**RESERVATION OF RIGHTS OF SAFRAN SEATS USA LLC
TO THE DEBTORS' NOTICE OF REJECTION OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

TO THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE:

¹ The Debtors in these chapter 11 cases, and each Debtor's federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int'l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors' principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

Safran Seats USA LLC, formerly known as Zodiac Seats US LLC (“SSUSA”) hereby files this *Reservation of Rights of Safran Seats USA LLC to the Debtors’ Notice of Rejection of Certain Executory Contracts and Unexpired Leases* and respectfully submits as follows:

A. Background

1. On May 10, 2020 (the “Petition Date”), Avianca Holdings S.A. and certain of its affiliates (collectively, the “Debtors”) commenced voluntary petitions under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors’ chapter 11 cases are pending before the United States Bankruptcy Court for the Southern District of New York (the “Court”).

2. On May 22, 2020, the Debtors filed the *Debtors’ Motion for Entry of an Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and (II) Granting Related Relief* [Doc. No. 153] (the “Rejection Procedures Motion”).

3. On June 9, 2020, pursuant to the Rejection Procedures Motion, the Court entered the *Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and Abandon Certain Aircraft and Equipment and (II) Granting Related Relief* [Doc. No. 261] (the “Rejection Procedures Order”). The Rejection Procedures Order authorized the Debtors to file omnibus notices of rejection in lieu of individual rejection motions, subject to a fourteen (14) day objection period.

4. Pursuant to the Rejection Procedures Order, on September 30, 2020 (the “Rejection Date”), the Debtors filed the *Notice of Rejection of Certain Executory Contracts and Unexpired Leases* [Doc. No. 994] (the “Rejection Notice”). As provided in the Rejection Notice, the Debtors seek to reject, among others, two contracts with SSUSA: (i) Passenger Seating for Aerovias Del Continente Americano S.A. Avianca 787-8 Aircraft Cirrus B/C and 5751 T/C Seat Models General Terms Agreement (GTA) #2012051 and (ii) Amendment #1 to General Terms Agreement (GTA) #2012051 (collectively, the “SSUSA Agreement”).

5. The original deadline to object to the Rejection Notice was October 14, 2020. By agreement of the parties, SSUSA's objection deadline has been extended to October 28, 2020.

B. SSUSA's Relationship to the Debtors

6. SSUSA is a world leader in aircraft passenger and crew seats. SSUSA partners with airlines and aircraft manufactures to bring its customers innovative, high added-value solutions to support them in their business. SSUSA offers a comprehensive range of products, including passenger seats for economy and premium economy class, passenger seats for business and first class, and crew seats.

7. Under the terms of the SSUSA Agreement, after the Petition Date and prior to the Rejection Date, SSUSA agreed to manufacture three (3) commodities for one of the Debtors, Aerovías del Continente Americano S.A. Avianca ("Aerovías"), including business class seats, shells, and monuments. These commodities were to be used in one of the Debtors' 787-9 aircraft.

8. Prior to or on the Rejection Date, as required under the SSUSA Agreement, SSUSA shipped to storage and invoiced Aerovías for: (i) all of the seats; and (ii) all of the shells (except for one). Moreover, as required under the SSUSA Agreement, SSUSA also shipped the monuments to storage but has not yet invoiced Aerovías for the monuments.

9. In exchange for SSUSA's services provided to the Debtors on a post-petition basis, under the terms of the SSUSA Agreement, the Debtors owe SSUSA for at least \$2,700,135.00, which represents the total outstanding invoices for the shipped seats and shells, the unshipped shell, and the shipped but un-invoiced monuments. As of the date of this reservation of rights, SSUSA has not been compensated for these post-petition services rendered to the Debtors.

C. SSUSA's Reservation of Rights

10. Regardless of whether the Debtors' have satisfied their burden to show that rejection of the SSUSA Agreement is within their business judgment, for the services rendered by SSUSA to the Debtors for their benefit after the Petition Date but prior to the Rejection Date, SSUSA is entitled to a priority administrative expense claim under section 503(b)(1)(A) of the Bankruptcy Code of not less than \$2,700,135.00. SSUSA intends to file its request for an administrative expense claim promptly.

11. Moreover, if the Court approves the Debtors' rejection of the SSUSA Agreement as an exercise of the Debtors' reasonable business judgment, SSUSA intends to file a proof of claim reflecting its rejection damages.

12. In the interim, SSUSA remains open to negotiations with the Debtors to resolve SSUSA's concerns with the Rejection Notice and the attempted rejection of the SSUSA Agreements in light of SSUSA's administrative claim for services already provided to the estates' benefit.

13. For the avoidance of doubt, SSUSA reserves and preserves all rights and remedies, including, without limitation: (i) to object to the Rejection Notice if the Debtors and SSUSA have not reached a resolution of SSUSA's concerns; (ii) to assert an administrative expense claim and a proof of claim arising from the SSUSA Agreement; (iii) to amend and/or supplement this reservation of rights; and (iv) to be heard on these and any other matters.

Dated: October 28, 2020
New York, New York

Respectfully submitted,

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By: /s/ Richard S. Kanowitz

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Attorney for Safran Seats USA LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by: (i) electronic mail via the Court's ECF system to all parties authorized to receive electronic notice in this case and (ii) by electronic mail and/or first class mail on the below listed Objection Service Parties [per Doc. No. 261] on October 28, 2020.

/s/ Richard S. Kanowitz
Richard S. Kanowitz

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